

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.568 OF 1993

The State of Maharashtra

...Appellant.

v/s

Govind Doula Thengil

...Respondent.

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Mr. A.S. Shitole APP for the State.

Mr. Vinod V. Savaje i/b Mr. Prafulla B. Shah for the  
respondent.

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CORAM: V.M. KANADE, J.  
DATE : 3rd February, 2005

ORAL JUDGMENT:

1. Heard the learned APP for the State and the  
learned counsel for the respondent.

2. The State has preferred this appeal against the  
Judgment and Order passed by the Judicial Magistrate,  
First Class, Mangalwedha, Solapur. By the said  
Judgment and Order dated 29/4/1993, the Trial Court  
was pleased to acquit the accused of the offence  
punishable under section 392 of the Indian Penal Code.

3. Prosecution case is that the complainant Vijayabai  
Koli was the resident of village Mundhewadi and she  
was returning back to her village after having  
attended her maintenance case in the Court at  
Mangalwedha. Complainant's case is that she got down

at the S.T. stand at Brahampuri and decided to go on foot from Brahampuri to Mundhewadi. Her case is that while she was travelling on foot, the accused came behind her and pressed her mouth by the hands and assaulted her with kicks and removed her mangalsutra and he also removed her ear and nose ornaments worth Rs 1400 and ran away. She raised hue and cry and when one bullock cart came from the village Brahampuri, she told the persons sitting in the said bullock cart about the incident and then a complaint was filed at the Police Station. The accused was arrested. The statements of the witnesses were recorded.

4. The learned APP has taken me through the judgment and order of the Trial Court and also the evidence adduced by the prosecution. Prosecution examined the complainant - P.W. 1. In her cross-examination, she has admitted that she has no documentary evidence regarding purchase of the gold articles. A suggestion was also put to her that the accused had given information to her husband in the matrimonial case which was filed by her and, therefore, she falsely involved the accused. In her evidence, she has stated that the repairing work was going on when she was proceeding towards her village and there were number of people on the road. She has also stated that the

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bullock cart also came on that road at the same time. However, the accused threatened the persons in the bullock cart that he would throw stones at them if they came to rescue the complainant. Prosecution, thereafter, examined P.W.2. - Basanna Nigadi. This witness has stated that he was doing labour work on the said road. He has further stated that he knows the accused and the complainant and he noticed that there was some quarrel between the complainant and the accused. He has stated that he and others, therefore, rushed to the place of the incident and found that the complainant was coming towards them and was weeping. He found that there were broken bangles and the packet of Nirma Powder which was also torn open. Prosecution has, thereafter, examined P.W.4 - Anil Nehatrao, the Medical Officer who has stated that there were two abrasions on the face of the complainant and one contusion on her chest. Prosecution also relied on the evidence of P.W. 3 - Imam Mulani. He has stated that he was also doing the labour work at Mundhewadi Brahampuri road and he noticed that the accused followed the complainant. Thereafter, there was hue and cry and the accused abused him. Prosecution has then examined P.W. 5 - Maroti Kalburwe, the Panch and P.W. 6 - Yesanna Kedar who was also working on the road and doing labour work. He has stated that he

heard some noise and noticed that the complainant was crying loudly. This witness, however, stated that he had not seen the alleged incident. P.W. 7 - Jagdeo also has stated that he did not see the incident. P.W. 8 - Wasudeo Patil who was the Investigating Officer has stated that he arrested the accused and completed the investigation and filed charge-sheet.

5. From the entire evidence, it can be seen that except the complainant, other witnesses have not supported the version given by the complainant. It is difficult to accept the uncorroborated testimony of the complainant. It is not possible to accept the case of the complainant that the accused would commit robbery on the road in the presence of 25 to 30 persons. A suggestion has been made that the accused was helping the husband of the complainant in the matrimonial case filed by the complainant against her husband. No recovery has been made at the instance of the accused of the ornaments which were allegedly stolen from her. Prosecution, therefore, has not established its case beyond the reasonable doubt. The Trial Court also has given cogent reasons for coming to the conclusion that the offence under section 392 of the Indian Penal Code was not proved by the prosecution. Thus, there is no reason to interfere

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with the judgment and order of the Trial Court.

Appeal is accordingly dismissed.

V.M. KANADE, J.